

**ASSEMBLY BILL**

**No. 1136**

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**Introduced by Assembly Member Dymally**

February 22, 2005

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An act to amend Sections 37253, 41505, 41506, 42239, and 52890 of, and to repeal Sections 41505.5, 42239, 42239.15, and 52891 of, the Education Code, relating to instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as introduced, Dymally. Pupil retention block grants.

(1) Existing law authorizes the governing board of a school district and a charter school to offer supplemental instructional programs in mathematics, science, or other core academic areas, as designated, and provides that the maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in the supplemental instructional programs shall be calculated pursuant to a formula that is based on 5% of the total enrollment of the school district or charter school for the prior fiscal year multiplied by a specified hourly rate. Existing law makes this authorization inoperative on July 1, 2005, and repeals it on January 1, 2006.

Existing law establishes a pupil retention block grant, that, commencing with the 2005-06 fiscal year, requires the Superintendent of Public Instruction to apportion funds to a school district in the same relative statewide proportion that the school district received in the 2003-04 fiscal year for specified programs, including supplemental instructional programs in mathematics, science, or other core academic areas, as designated.

This bill would remove supplemental instructional programs in mathematics, science, or other core academic areas, as designated,

from the pupil retention block grant, and would delete the inoperative and repeal dates, extending the operation of provisions relating to those programs indefinitely.

(2) Existing law requires the State Department of Education to make an initial allocation of 75% of the allocation for a school district of block grant funds, and to make the remaining portion of the allocation only after supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded, as specified.

This bill would delete the requirement that the department retain the balance of block grant funds until supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental inscription to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded.

(3) Existing law requires a school district that received pupil retention block grant funds for dropout prevention and recovery programs in the 2003-04 fiscal year to maintain at least the same number of outreach consultants in the 2004-05 fiscal year. Existing law requires a school district to place consultants first in schools that have the highest percentages of pupils eligible for the federal free and reduced price lunch program.

This bill would require a school district that received funds for dropout prevention and recovery programs in the 2003-04 and the 2004-05 fiscal years to maintain at least the same number of outreach consultants in the 2004-05 fiscal year. The bill would require a school district to place consultants first in schools that have at least 50% of pupils eligible for the federal free and reduced price lunch program.

(4) Existing law requires a school district and school that submits a school-based motivation and maintenance program plan pursuant to specified provisions of law to include a description of the manner in which it will utilize outreach consultants, as specified. Existing law makes those provisions inoperative on July 1, 2005, and repeals them on January 1, 2006.

This bill would delete the inoperative and repeal dates, extending the operation of those provisions indefinitely.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 37253 of the Education Code is amended to read:

37253. (a) The governing board of any school district and a charter school may offer supplemental instructional programs in mathematics, science, or other core academic areas designated by the Superintendent of Public Instruction.

(b) The Superintendent of Public Instruction shall adopt rules and regulations necessary to implement this section, including, but not limited to, the designation of academic areas other than mathematics and science as core academic areas.

(c) (1) The maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in supplemental instructional programs offered pursuant to this section shall be an amount equal to 5 percent of the total enrollment of the school district or charter school for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, as determined pursuant to ~~subdivision (c) of Section 42239~~ paragraph (2).

(2) *Pupil hours of attendance in supplemental instructional programs offered pursuant to this section shall be reimbursed at a rate of three dollars and twenty-five cents (\$3.25) per pupil hour, adjusted in future years as specified in this paragraph, provided that a different reimbursement rate may be specified for each fiscal year in the annual Budget Act that appropriates funding for that fiscal year. This amount shall be increased annually by the percentage increase pursuant to subdivision (b) of Section 42238.1 granted to school districts or charter schools for base revenue limit cost-of-living increases.*

(d) To the extent appropriated funding allows, a school district or charter school may enroll more than 5 percent of its pupils, or may enroll pupils for more than 120 hours per year, in

1 supplemental instructional programs offered pursuant to this  
2 section, if the total state apportionment to the district or charter  
3 school for these programs does not exceed an amount computed  
4 equal to 10 percent of the total enrollment of the school district  
5 or charter school for the prior fiscal year multiplied by 120 hours,  
6 multiplied by the hourly rate for the current fiscal year, as  
7 determined pursuant to *paragraph (2) of subdivision (c)*—~~of~~  
8 ~~Section 42239.~~

9 (e) Instructional programs may be offered pursuant to this  
10 section during the summer, before school, after school, on  
11 Saturday, or during intersession, or in any combination of  
12 summer, before school, after school, Saturday, or intersession  
13 instruction, but shall be in addition to the regular schoolday. Any  
14 minor pupil whose parent or guardian informs the school district  
15 that the pupil is unable to attend a Saturday school program for  
16 religious reasons, or any pupil 18 years of age or older who states  
17 that he or she is unable to attend a Saturday school program for  
18 religious reasons, shall be given priority for enrollment in  
19 supplemental instruction offered at a time other than Saturday,  
20 over a pupil who is not unable to attend a Saturday school  
21 program for religious reasons.

22 (f) Notwithstanding any other law, neither the State Board of  
23 Education nor the Superintendent of Public Instruction may  
24 waive compliance with any provision of this section.

25 ~~(g) This section shall become inoperative on July 1, 2005, and,~~  
26 ~~as of January 1, 2006, is repealed, unless a later enacted statute~~  
27 ~~that is enacted before January 1, 2006, deletes or extends the~~  
28 ~~dates on which it becomes inoperative and is repealed.~~

29 SEC. 2. Section 41505 of the Education Code is amended to  
30 read:

31 41505. (a) There is hereby established the pupil retention  
32 block grant. ~~Commencing with the 2005–06 fiscal year, the~~ *The*  
33 Superintendent of Public Instruction shall apportion block grant  
34 funds to a school district in the same relative statewide  
35 proportion that the school district received in the 2003–04 fiscal  
36 year for the programs listed in Section 41506.

37 (b) A school district may expend funds received pursuant to  
38 this article for any purpose authorized by the programs listed in  
39 Section 41506 as the statutes governing those programs read on  
40 January 1, 2004.

1 (c) For purposes of this article, “school district” includes a  
2 county office of education if county offices of education are  
3 eligible to receive funds for the programs that are listed in  
4 Section 41506. The block grant of a county office of education  
5 shall be based only on those programs for which it was eligible to  
6 receive funds in the 2003–04 fiscal year.

7 SEC. 3. Section 41505.5 of the Education Code is repealed.

8 ~~41505.5. The department shall make an initial allocation of~~  
9 ~~funds to each local educational agency eligible for funding~~  
10 ~~pursuant to this article. This initial allocation shall be 75 percent~~  
11 ~~of the allocation for each local educational agency that is~~  
12 ~~determined pursuant to Section 41505. The remaining portion of~~  
13 ~~each district’s allocation shall be made only after supplemental~~  
14 ~~instruction provided under Sections 37252 and 37252.2 is fully~~  
15 ~~funded as required pursuant to Section 42239. If the~~  
16 ~~Superintendent of Public Instruction notifies the Director of~~  
17 ~~Finance pursuant to paragraph (4) subdivision (c) of Section~~  
18 ~~42239 that there is a deficiency of funding for purposes of~~  
19 ~~Sections 37252 and 37252.2, the Controller shall transfer from~~  
20 ~~funding provided for purposes of this article any amounts needed~~  
21 ~~to fully fund supplemental instruction provided under Sections~~  
22 ~~37252 and 37252.2. The transfer of funds pursuant to this section~~  
23 ~~shall be to the item or items in the annual Budget Act that~~  
24 ~~appropriate funds for supplemental instruction provided under~~  
25 ~~Sections 37252 and 37252.2. If the amount of funds remaining~~  
26 ~~after the initial 75 percent allocation is insufficient in any year to~~  
27 ~~fully fund supplemental instruction provided pursuant to Sections~~  
28 ~~37252 and 37252.2, the amount of the remaining insufficiency~~  
29 ~~shall be deducted from funds appropriated for purposes of this~~  
30 ~~article for the subsequent fiscal year.~~

31 SEC. 4. Section 41506 of the Education Code is amended to  
32 read:

33 41506. The pupil retention block grant shall include funding  
34 previously apportioned to school districts for purposes of the  
35 following programs:

36 (a) Supplemental instruction as set forth in ~~Sections~~ *Section*  
37 ~~37252.8 and 37253~~, Article 1 (commencing with Section 53025)  
38 of Chapter 16, and Chapter 18 (commencing with Section  
39 53091), of Part 28. Notwithstanding any other provision of law,  
40 funding attributable to the programs identified in this subdivision

1 shall be adjusted annually at both the statewide and local  
2 educational agency levels to reflect actual participation, and local  
3 educational agency funding eligibility shall not exceed the  
4 statutory limitations for these programs, as the statutes governing  
5 these programs read on January 1, 2004.

6 (b) Continuation high schools as set forth in Section 42243.7.

7 (c) High-Risk Youth Education and Public Safety as set forth  
8 in Part 26.95 (commencing with Section 47750).

9 (d) Tenth grade counseling as set forth in Sections 48431.6  
10 and 48431.7.

11 (e) Opportunity programs as set forth in Article 1  
12 (commencing with Section 48630) and Article 2.3 (commencing  
13 with Section 48643) of Chapter 4 of Part 27. The pupil retention  
14 block grant shall not include funding apportioned to county  
15 offices of education for opportunity schools and programs  
16 administered under Sections 48640 and 48641.

17 (f) (1) Dropout prevention and recovery as set forth in Article  
18 6 (commencing with Section 52890) and Article 7 (commencing  
19 with Section 52900) of Chapter 12 of Part 28, Article 3  
20 (commencing with Section 54660) and Article 7 (commencing  
21 with Section 54720) of Chapter 9 of Part 29, and Chapter 3.5  
22 (commencing with Section 58550) of Part 31. A school district  
23 that received funds pursuant to the programs listed in this  
24 subdivision in the 2003–04 *and 2004–05* fiscal-year years shall  
25 utilize funds received pursuant to this article to maintain at least  
26 the same number of outreach consultants as described in Section  
27 52890 that were utilized by the school district in the 2004–05  
28 fiscal year. ~~A~~

29 (2) ~~A school district shall place consultants first in the school~~  
30 ~~that has the highest percentage in schools that have at least 50~~  
31 ~~percent of pupils eligible for the federal free and reduced price~~  
32 ~~lunch program. The~~

33 ~~school district shall place consultants in the school,~~  
34 ~~commencing with schools with the next highest percentage of~~  
35 ~~those pupils and continue continuing in this manner until the~~  
36 ~~school district places in its schools all the outreach consultants~~  
37 ~~required to be placed pursuant to this section paragraph.~~

38 (g) Early intervention for school success as set forth in Article  
39 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

1 (h) An at-risk youth program operated by the Los Angeles  
2 Unified School District that is funded pursuant to Item  
3 6110-280-0001 of Section 2.0 of the annual Budget Act.

4 SEC. 5. Section 42239 of the Education Code, as amended by  
5 Section 8 of Chapter 871 of the Statutes of 2004, is repealed.

6 ~~42239. For the 2000-01 fiscal year, and each fiscal year~~  
7 ~~thereafter, the Superintendent of Public Instruction shall compute~~  
8 ~~funding for supplemental instruction for each school district or~~  
9 ~~charter school in the following manner:~~

10 (a) ~~Multiply the number of pupil hours of supplemental~~  
11 ~~instruction claimed pursuant to Sections 37252 and 37252.2 by~~  
12 ~~the pupil hour allowance specified in subdivision (c) or by a~~  
13 ~~pupil hour allowance specified in the annual Budget Act in lieu~~  
14 ~~of the amount computed in subdivision (c).~~

15 (b) ~~Multiply the number of pupil hours of supplemental~~  
16 ~~instruction claimed pursuant to Sections 37252.6, 37252.8, and~~  
17 ~~37253 by the pupil hour allowance specified in subdivision (c) or~~  
18 ~~by a per-pupil hour allowance specified in the annual Budget Act~~  
19 ~~in lieu of the amount computed in subdivision (c). The total~~  
20 ~~number of pupil hours of supplemental instruction that may be~~  
21 ~~claimed pursuant to Section 37253 may not exceed the limits on~~  
22 ~~pupil hours that may be claimed as established by subdivisions~~  
23 ~~(c) and (d) of Section 37253. The total number of pupil hours of~~  
24 ~~supplemental instruction that may be claimed pursuant to Section~~  
25 ~~37252.6 may not exceed the limits on pupil hours that may be~~  
26 ~~claimed as established in subdivision (g) of that section.~~

27 (c) ~~Commencing with the 2000-01 fiscal year, hours of~~  
28 ~~supplemental instruction shall be reimbursed at a rate of three~~  
29 ~~dollars and twenty-five cents (\$3.25) per pupil hour, adjusted in~~  
30 ~~future years as specified in this section, provided that a different~~  
31 ~~reimbursement rate may be specified for each fiscal year in the~~  
32 ~~annual Budget Act that appropriates funding for that fiscal year.~~  
33 ~~This amount shall be increased annually by the percentage~~  
34 ~~increase pursuant to subdivision (b) of Section 42238.1 granted~~  
35 ~~to school districts or charter schools for base revenue limit~~  
36 ~~cost-of-living increases.~~

37 (d) ~~(1) If appropriated funding is insufficient to pay all claims~~  
38 ~~made in any fiscal year pursuant to Section 37252 or 37252.2, the~~  
39 ~~superintendent shall use any available funding appropriated for~~

1 the purposes of reimbursing school districts pursuant to Section  
2 37252, 37252.2, 37252.5, or subdivision (d) of Section 37253.

3 (2) If appropriated funding is still insufficient to pay all claims  
4 made in any fiscal year pursuant to Section 37252, 37252.2, or  
5 37252.5, the superintendent shall use any available funding  
6 appropriated for the purposes of reimbursing school districts for  
7 supplemental instruction in the prior fiscal year.

8 (3) If appropriated funding is still insufficient to pay all claims  
9 made in any fiscal year pursuant to Section 37252 or 37252.2, the  
10 superintendent shall use any available funding appropriated for  
11 the purposes of reimbursing school districts for supplemental  
12 instruction in the current fiscal year.

13 (4) The superintendent shall notify the Director of Finance that  
14 there is a deficiency of funding appropriated for the purposes of  
15 Sections 37252, 37252.2, and 37252.5 only after the  
16 superintendent has exhausted all available balances of  
17 appropriations made for the current or prior fiscal years for the  
18 reimbursement of school districts for supplemental instruction.

19 (e) Notwithstanding any other provision of law, neither the  
20 State Board of Education nor the Superintendent of Public  
21 Instruction may waive any provision of this section.

22 (f) This section shall become inoperative on July 1, 2005, and,  
23 as of January 1, 2006, is repealed, unless a later enacted statute  
24 that is enacted before January 1, 2006, deletes or extends the  
25 dates on which it becomes inoperative and is repealed.

26 SEC. 6. Section 42239 of the Education Code, as added by  
27 Section 9 of Chapter 871 of the Statutes of 2004, is amended to  
28 read:

29 42239. (a) For the 2005-06 fiscal year, and each fiscal year  
30 thereafter, the Superintendent of Public Instruction shall compute  
31 funding for supplemental instruction for each school district or  
32 charter school by multiplying the number of pupil hours of  
33 supplemental instruction claimed pursuant to Sections 37252 and  
34 37252.2 by the pupil hour allowance specified in subdivision (b)  
35 or by a pupil hour allowance specified in the annual Budget Act  
36 in lieu of the amount computed in subdivision (b).

37 (b) Commencing with the 2000-01 fiscal year, hoursHours of  
38 supplemental instruction shall be reimbursed at a rate of three  
39 dollars and twenty-five cents (\$3.25) per pupil hour, adjusted in  
40 future years as specified in this section, provided that a different



1 reimbursement rate may be specified for each fiscal year in the  
2 annual Budget Act that appropriates funding for that fiscal year.  
3 This amount shall be increased annually by the percentage  
4 increase pursuant to subdivision (b) of Section 42238.1 granted  
5 to school districts or charter schools for base revenue limit  
6 cost-of-living increases.

7 (c) (1) If appropriated funding is insufficient to pay all claims  
8 made in any fiscal year pursuant to Sections 37252 and 37252.2,  
9 the superintendent shall use any available funding appropriated  
10 for the purposes of reimbursing school districts pursuant to  
11 Sections 37252 and 37252.2.

12 (2) If appropriated funding is still insufficient to pay all claims  
13 made in any fiscal year pursuant to Sections 37252 and 37252.2,  
14 the superintendent shall use any available funding appropriated  
15 for the purposes of reimbursing school districts for supplemental  
16 instruction in the prior fiscal year.

17 (3) If appropriated funding is still insufficient to pay all claims  
18 made in any fiscal year pursuant to Sections 37252 and 37252.2,  
19 the superintendent shall use any available funding appropriated  
20 for the purposes of reimbursing school districts for supplemental  
21 instruction in the current fiscal year.

22 (4) If appropriated funding is still insufficient to pay all claims  
23 made in any fiscal year pursuant to Sections 37252 and 37252.2,  
24 the superintendent shall certify to the Controller the amount of  
25 funds needed to fully fund claims pursuant to Sections 37252 and  
26 37252.2. Upon receipt of certification from the superintendent,  
27 the Controller shall transfer the amount from any funds available  
28 for that fiscal year for the Pupil Retention Block Grant program  
29 provided pursuant to Article 1 (commencing with Section 41505)  
30 of Chapter 3.2 of Part 24. If insufficient funds are available from  
31 the appropriation for the Pupil Retention Block Grant program  
32 for the fiscal year, the Controller shall transfer any remaining  
33 funds needed from any amount appropriated for the Pupil  
34 Retention Block Grant program for the following fiscal year.

35 (5) The superintendent shall notify the Director of Finance that  
36 there is an insufficiency of funding appropriated for the purposes  
37 of Sections 37252 and 37252.2 only after the superintendent has  
38 exhausted all available balances of appropriations made for the  
39 current or prior fiscal years for the reimbursement of school  
40 districts for supplemental instruction and shall report the amount

1 certified to be transferred from the Pupil Retention Block Grant  
2 to eliminate that insufficiency.

3 (d) Notwithstanding any other provision of law, neither the  
4 State Board of Education nor the Superintendent of Public  
5 Instruction may waive any provision of this section.

6 ~~(e) This section shall become operative on July 1, 2005.~~

7 SEC. 7. Section 42239.15 of the Education Code is repealed.

8 ~~42239.15. (a) For the 2000-01 fiscal year and each fiscal~~  
9 ~~year thereafter, each school district and charter school is eligible~~  
10 ~~for reimbursement for hours of pupil attendance claimed for~~  
11 ~~intensive algebra instruction academies offered pursuant to~~  
12 ~~Chapter 18 (commencing with Section 53091) of Part 28 in an~~  
13 ~~amount up to 6 percent of the total enrollment in grades 7 and 8~~  
14 ~~of the school district or charter school for the prior fiscal year~~  
15 ~~multiplied by 120 hours, multiplied by the hourly rate for the~~  
16 ~~current fiscal year determined pursuant to subdivision (e) of~~  
17 ~~Section 42239. This amount shall be provided in addition to the~~  
18 ~~amount provided pursuant to Section 42239.~~

19 ~~(b) In expending funds received pursuant to this section, a~~  
20 ~~school district shall give first priority for the purpose specified in~~  
21 ~~paragraph (1) of subdivision (d) of Section 53092.~~

22 ~~(c) Reimbursement pursuant to this section is contingent on an~~  
23 ~~appropriation being made for that purpose in the annual Budget~~  
24 ~~Act.~~

25 ~~(d) This section shall become inoperative on July 1, 2005, and,~~  
26 ~~as of January 1, 2006, is repealed, unless a later enacted statute~~  
27 ~~that is enacted before January 1, 2006, deletes or extends the~~  
28 ~~dates on which it becomes inoperative and is repealed.~~

29 SEC. 8. Section 52890 of the Education Code is amended to  
30 read:

31 52890. Each school district and school that submits a  
32 school-based motivation and maintenance program plan pursuant  
33 to Article 6 (commencing with Section 54720) of Chapter 9 of  
34 Part 29, *as that article read on January 1, 2004*, shall include in  
35 the plan a description of the manner in which it will utilize  
36 outreach consultants. For purposes of this article, each outreach  
37 consultant, at a minimum, shall do all of the following:

38 (a) Possess a Dropout Prevention Specialist Certificate from a  
39 California State University, or enroll in a Dropout Prevention  
40 Specialist Certificate program within 90 days of the date of hire,

1 except that outreach consultants employed on or before January  
2 1, 2004, are exempt from this requirement.

3 (b) Demonstrate knowledge of local alternative educational  
4 programs and employ those programs to respond to the  
5 differential needs and unique learning styles of pupils.

6 (c) Demonstrate knowledge of local community agencies and  
7 community programs to recruit those agencies and programs to  
8 assist in the physical or psychological remediation of pupils.

9 (d) Utilize local school programs, options, and opportunities to  
10 assist pupils in locating, securing, or retaining employment.

11 (e) Utilize techniques that enhance interpersonal  
12 communication, self-understanding, self-disclosure, and  
13 depth-level sharing.

14 (f) Employ appropriate methods to create circumstances  
15 necessary so that change is permitted and encouraged in  
16 individuals, programs, and institutions.

17 (g) Be responsible for supervising, instructing, conducting  
18 negotiations with, and advising pupils and adults.

19 SEC. 9. Section 52891 of the Education Code is repealed.

20 ~~52891. This article shall become inoperative on July 1, 2005,~~  
21 ~~and, as of January 1, 2006, is repealed, unless a later enacted~~  
22 ~~statute that is enacted before January 1, 2006, deletes or extends~~  
23 ~~the dates on which it becomes inoperative and is repealed.~~

24 SEC. 10. This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or safety  
26 within the meaning of Article IV of the Constitution and shall go  
27 into immediate effect. The facts constituting the necessity are:

28 In order to address the special needs of pupils by supporting  
29 supplemental instructional programs as soon as possible, it is  
30 necessary that this act take effect immediately.